



DEPARTMENT OF AGRICULTURE

Rural Utilities Service

Docket Number: [RUS–20–TELECOM-0044]

7 CFR Parts 1735 and 1737

RIN: 0572–AC48

Implementation of Telecommunications Provisions of the Agricultural Improvement Act of 2018

AGENCY: Rural Utilities Service, USDA.

ACTION: Final rule; confirmation

SUMMARY: The Rural Utilities Service, a Rural Development agency of the United States Department of Agriculture (USDA), hereinafter referred to as “RUS” or “the Agency,” published in the **Federal Register** on September 10, 2021, a final rule with request for comments. This document presents the opportunity for the Agency to provide its responses to the public comments received on the final rule and to confirm the final rule as published.

DATES: [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]

FOR FURTHER INFORMATION CONTACT: Laurel Leverrier, Assistant Administrator, Telecommunications Program, Rural Utilities Service, U.S. Department of Agriculture, email: laurel.leverrier@usda.gov, telephone (202) 720-9556.

SUPPLEMENTARY INFORMATION: The RUS published a final rule with request for comments in the **Federal Register** on September 10, 2021 at 86 FR 50604. The final rule modified existing regulations to implement statutory provisions of the Agriculture Improvement Act of 2018 (2018 Farm Bill).

The comment period on the final rule closed November 9, 2021. Comments were received from five respondents. The comments provided and Agency responses are as follows:

Respondent One

Respondent one is an individual that offered general comments on the importance of connectivity and how it can benefit rural areas and farmers.

Agency Response: Thank you for your comment.

Respondent Two

Respondent two is a small company located in Kansas that started up specifically to offer broadband service with a grant through a COVID-19 response program. The company had to take on additional debt in order to expand their service and have provided general comments on their experience with providing service to a small area and the challenges they continue to face. They “would like to see refinancing limits to 100 percent loans and 50 percent for non-RUS loans.” They express the need for easier access to capital for network upgrades.

Agency Response: Thank you for your comment.

Respondent Three

Respondent three is an organization that represents its member telecommunications companies and advocates on their behalf. They provided a general discussion on the changes made to the regulation and offered the following:

“The proposed rules for implementing the changes to the Rural Telephone Loan Program represent a good faith and commendable effort to carry out the will of Congress expressed in the 2018 Farm Bill, and USDA has the benefit of decades of experience (and countless success stories) at RUS in supporting rural telecom and coordinating with other federal programs. As RUS begins administering the revamped program, however, it will be important to recommit to such efforts,

including identifying where providers are receiving USF or other program support to deploy to at least the RUS broadband standard, and limiting future USDA awards in those areas to the recipients of support or funding from these other programs instead of duplicating the existing network and putting scarce federal resources at risk.”

As part of their concern for identifying where existing providers are located, they recommended adding to § 1735.12 on nonduplication “that such loan will not results in duplication of lines, facilities, or systems that are obligated to be built in the area in question to provide reasonably adequate services under other programs administered by the Agency or any other federal Agency.”

Agency Response: The Agency supports the respondent’s comment and the Agency meets with other federal agencies that support the deployment of broadband facilities on a regular basis. We appreciate your suggestion and will keep it under consideration for a future change to the regulation. As the Agency works with our other federal partners, we will develop an overall strategy that ensures the most efficient use of all federal dollars allocated to providing broadband service.

Respondent Four

Respondent four is an existing Native American RUS borrower that has been in operation over 60 years. They have outstanding loans in the telecommunications and broadband programs. They “strongly support the included federal rule amendments and urge their expeditious implementation by the RUS.” In support of and relating to these changes, the company offered a detailed summary of their existing operations and their hard work in providing modern, state-of-the-art telecommunications services to its customers. Their broadband penetration “sits at approximately 58 percent and while the company understands the importance of making its broadband services more affordable, it has been unable to reduce its pricing given financial, cost recovery needs. As a small

company providing broadband and voice services over a large, remote, and thinly populated area, the company faces significant cost recovery challenges.” In recognition of their cost recovery and price affordability concerns, they have been in discussions with the Agency on extensions, revised loan terms or full refinancing options.

As to implementation of the final rule and issuance of the referenced funding opportunity announcement, “the borrower urges RUS to move swiftly in its process, issuing the required public notice at the earliest opportunity. Furthermore, the company requests that the RUS in making funds available for refinancing establish a process for receiving and reviewing applications that fairly takes into account the interest of the company and other service providers.”

In its summary, the borrower “urges the RUS to sufficiently clarify within the released Notice of Funding Opportunity the differences in the informational requirements, review processes and the estimated timelines that will apply with respect to the RUS review of refinance applications vs. original loan applications. Also, given the informational requirements and steps necessary for full review and final action by the RUS should not be as extensive for refinance applications, the borrower encourages the RUS to implement a timeline for its acceptance and review of refinance applications that is different than, and much shorter, than the timelines will be established for the submittal, review and action on applications for new infrastructure loans.”

Agency response: The Agency is in the final phase of the funding announcement to open the Infrastructure Program to the new refinancing opportunities. The funding announcement will include the requirements that need to be satisfied to receive the refinancing. Applications will be processed as soon as they are submitted.

Respondent Five

Respondent five is a national trade association that represents small, rural telecommunications providers across rural America. Many of the rural location exchange

carriers they represent have a long-standing relationship with the Agency going back more than 75 years. The respondent “supports RUS’ efforts that streamline the Loan Program and eliminate unnecessary requirements so that the Program operates more efficiently. In addition, the respondent supports some of the more substantive changes made to the Loan Program rules. Specifically, creating a minimum retail broadband service speed standard of 25/3 Mbps will help ensure rural areas are not left behind more populated areas when it comes to broadband service. In addition, broader loan restructuring and refinancing authority will allow RUS borrowers to take advantage of better interest rates. Finally, the creation of a public notice requirement for loan applications will help ensure funds are not used to duplicate existing networks; however, RUS should strengthen this provision by directly contacting incumbent service providers to let them know of a submitted application.”

Agency response: The Agency believes that the public notice requirements, set out by statute, sufficiently put incumbent service providers on notice that an application has been submitted under any program at USDA for retail broadband assistance.

The Agency did not receive any significant adverse comments during the public comment period on the final rule, and therefore confirms the rule without change.

Christopher A. McLean
Acting Administrator
Rural Utilities Service

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